

REMARKS

Claims 1, 3 and 5-23 are pending, claims 1 and 3 are examined and rejected, and the remaining claims 5-23 are withdrawn from consideration. In the interest of advancing prosecution and securing rapid allowance of the claims, Applicants herein change “consisting essentially of” to “consisting of” in claims 1 and 3. Applicants earnestly request a prompt notification in the form of a Notice of Allowance or alternatively an Advisory Action in the event any issues remain unresolved.

Rejection under 35 U.S.C. §102

The Examiner rejects claims 1 and 3 are allegedly anticipated by Nakatani *et al.*, WO 98/03652. Applicants previously changed “comprising” to “consisting essentially of” in claims 1 and 3. The Examiner appears to indicate changing “consisting essentially of” to “consisting of” would overcome this rejection. In the interest of advancing prosecution and securing rapid allowance of the claims, Applicants make this change in both claims 1 and 3 thereby overcoming the rejection on this basis alone.

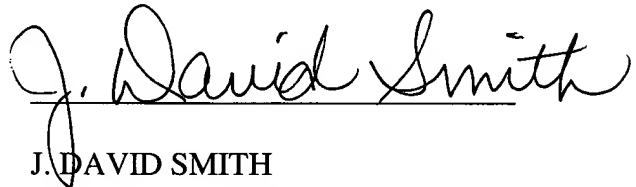
Rejection under 35 U.S.C. §103

The Examiner rejects claim 3 is allegedly unpatentable over Nakatani *et al.*, WO 98/03652 in view of Malcolm *et al.*, EP 0124221. The Examiner admits that Nakatani *et al.* do not teach including a non-P/CAF nucleic acid sequence. However, the Examiner says that Malcolm *et al.* teach detecting nucleic acid probes bound to target sequences including, e.g. using a probe having a poly (dA) or poly (dT) tail that binds to a marker attached to the polynucleotide. Therefore, it would have allegedly been obvious to include such tails in the probes of Nakatani *et al.* As noted above, the Examiner appears to indicate changing “consisting essentially of” to “consisting of” would overcome this rejection. In the interest of advancing prosecution and securing rapid allowance of the claims, Applicants make this change in claim 3 thereby overcoming the rejection on this basis alone since Malcolm *et al.* do not cure the deficiencies of Nakatani *et al.* in this regard.

CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is believed that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

A handwritten signature in black ink, reading "J. David Smith", written over a horizontal line.

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